

Original sponsor: Health, Education and  
Social Services Committee

Offered: 4/27/79  
Referred: Judiciary and  
Finance

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 250 am H

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act terminating the existence of the Alcoholic  
7 Beverage Control Board, reassigning its responsibili-  
8 ties to the Department of Commerce and Economic Devel-  
9 opment, amending laws relating to the department's  
10 responsibilities; and providing for an effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 \* Section 1. AS 04.05.010 is amended to read:

13 Sec. 04.05.010. DIVISION OF ALCOHOLIC BEVERAGE CONTROL [CREATION  
14 OF BOARD AND OFFICE OF DIRECTOR]. (a) There is established a division  
15 of alcoholic beverage control [AN ALCOHOLIC BEVERAGE CONTROL BOARD]  
16 within the Department of Commerce and Economic Development [CONSISTING  
17 OF FIVE MEMBERS APPOINTED FOR OVERLAPPING THREE-YEAR TERMS]. The depart-  
18 ment [BOARD] is vested with the duties, powers, and responsibilities  
19 involved in the control of alcoholic beverages, including the promulga-  
20 tion of [RULES AND] regulations. The commissioner shall hear [AND THE  
21 HEARING OF] appeals from the action of officers and employees charges  
22 with enforcing the alcoholic beverage control laws [, RULES,] and regula-  
23 tions. [THE GOVERNOR SHALL APPOINT THE BOARD SUBJECT TO CONFIRMATION BY  
24 THE LEGISLATURE. NO MEMBER OF THE BOARD MAY HOLD ANY OTHER STATE OR  
25 FEDERAL OFFICE, EITHER ELECTIVE OR APPOINTIVE. TWO MEMBERS OF THE BOARD  
26 SHALL BE ACTIVELY ENGAGED IN THE ALCOHOLIC BEVERAGE INDUSTRY, EXCEPT  
27 THAT NO MEMBER MAY BE AN OFFICER, AGENT, OR EMPLOYEE OF A WHOLESALE  
28 ALCOHOLIC BEVERAGE ENTERPRISE. NO THREE MEMBERS OF THE BOARD MAY BE  
29 ENGAGED IN THE SAME BUSINESS, OCCUPATION OR PROFESSION. THREE MEMBERS

1 CONSTITUTE A QUORUM FOR THE CONDUCT OF BUSINESS. THE BOARD SHALL MEET  
2 AT LEAST ONCE EACH YEAR IN EACH OF THE FOUR JUDICIAL DISTRICTS TO STUDY,  
3 RECONSIDER AND MODIFY EXISTING AGENCY RULES AND REGULATIONS IN THE LIGHT  
4 OF CURRENT LOCAL PROBLEMS.]

5 (b) The commissioner [GOVERNOR] shall appoint a director [, SUB-  
6 JECT TO CONFIRMATION BY THE LEGISLATURE, WHO IS THE EXECUTIVE OFFICER OF  
7 THE BOARD]. The director shall enforce this title and the [RULES AND]  
8 regulations of the department under the supervision of the commissioner.  
9 The director [PROMULGATED BY THE BOARD. THE DIRECTOR IS NOT A MEMBER OF  
10 THE BOARD BUT MAY CAST A TIE-BREAKING VOTE. HE] shall issue all  
11 licenses provided for under this title.

12 \* Sec. 2. AS 04.05.020 is amended to read:

13 Sec. 04.05.020. REGULATIONS. The department [BOARD] shall adopt  
14 [PRESCRIBE RULES AND] regulations consistent with this title governing  
15 the manufacture, barter, sale, and possession of intoxicating liquors in  
16 the state and shall prescribe application fees.

17 \* Sec. 3. AS 04.05.030 is amended to read:

18 Sec. 04.05.030. POWERS, AUTHORITY AND CONTROL. (a) The depart-  
19 ment shall [BOARD MAY] control the manufacture, barter, sale and posses-  
20 sion of intoxicating liquors in the state, and may adopt necessary  
21 [RULES AND] regulations to assure the proper administration of state  
22 liquor laws [REGULATIONS] in a manner that will protect the public  
23 health, safety and welfare.

24 (b) The department [BOARD] shall review all applications made  
25 under this title for licenses and shall issue, reissue, revoke, transfer  
26 or suspend all licenses coming within the purview of this title. The  
27 licenses shall be issued, reissued, revoked, transferred or suspended as  
28 the department [BOARD] considers in the best interests of the public.  
29 When a license is denied, the denial shall be made in writing with the

1 reason for the denial set out [FORTH].

2 (c) The department [BOARD] may hold public hearings on applica-  
3 tions for licenses when any applications are protested, and require an  
4 applicant to answer any pertinent questions.

5 (d) The department [BOARD] may appoint agents, assistants, clerks  
6 and stenographic employees as it considers necessary in giving effect to  
7 this title.

8 (e) The department [BOARD] may adopt [PROMULGATE] necessary [RULES  
9 AND] regulations to effectuate the purpose of this title. These [RULES  
10 AND] regulations shall have the effect of law.

11 (f) The Administrative Procedure Act (AS 44.62) governs all pro-  
12 ceedings under this title.

13 \* Sec. 4. AS 04.05.040 is amended to read:

14 Sec. 04.05.040. SCOPE OF REGULATIONS. The power of the department  
15 [BOARD] to adopt [RULES AND] regulations specifically includes, but is  
16 not limited to, the following matters:

17 (1) regulating the employment, conduct and duties of the  
18 employees of the division of alcoholic beverage control [BOARD];

19 (2) prescribing the forms of application, reports and other  
20 forms, and the terms and conditions in permits and licenses issued;

21 (3) prescribing the fees to be paid for permits and licenses  
22 issued for which no fees are prescribed by statute, and prescribing the  
23 fees for anything done or permitted to be done under the regulations;

24 [(4) PROVIDING FOR REGULAR AND SPECIAL MEETINGS OF THE BOARD  
25 AS MAY BE NECESSARY OR PROPER;]

26 (5) providing for the delegation to the director of routine  
27 administrative functions and powers, including the issuance, transfer  
28 and renewal of licenses and permits where there is no contest or pro-  
29 test;

1 (6) prescribing the manner of giving and serving notice  
2 required by law or regulation where it is not provided for by statute;

3 (7) prescribing the conditions, accommodations, qualifica-  
4 tions, and inspections of each type or kind of license, licensee, or  
5 licensed premises;

6 (8) providing for the making of returns and reports by whole-  
7 salers of wine, beer and liquor;

8 (9) providing for the giving of fidelity bonds by any or all  
9 of the employees of the division [BOARD], the state to pay the premiums  
10 for the bonds;

11 (10) providing for the issuance, renewal, reissuance, revoca-  
12 tion and suspension of licenses and permits;

13 (11) prohibiting possession of alcoholic beverages by minors;

14 (12) prescribing reports from licensee corporations, including  
15 reports of stock ownership, transfers and changes of officers and  
16 directors.

17 \* Sec. 5. AS 04.05.070 is amended to read:

18 Sec. 04.05.070. VIOLATION OF REGULATIONS OF THE DEPARTMENT  
19 [BOARD]. A person, firm, or corporation, who violates a [RULE OR]  
20 regulation adopted [PRESCRIBED] by the department [BOARD] governing the  
21 manufacture, sale, barter, and possession of intoxicating liquors in the  
22 state, or the qualifications of those engaging in the manufacture, sale,  
23 barter, and possession of intoxicating liquors in the state, or the  
24 payment of license fees and excise taxes, is guilty of a misdemeanor,  
25 and upon conviction is punishable as provided in AS 04.15.100.

26 \* Sec. 6. AS 04.10.030 is amended to read:

27 Sec. 04.10.030. ISSUANCE OF LICENSES. The licenses described in  
28 AS 04.10.040 - 04.10.140 shall be issued by the director [UPON DIRECTION  
29 OF THE BOARD].

1 \* Sec. 7. AS 04.10.040(a) is amended to read:

2 (a) The holder of a beverage dispensary license may sell for cash  
3 or serve on the premises beer, wine and hard liquors for consumption on  
4 the premises only. The beverage dispensary license fee is \$500 in all  
5 unincorporated communities and incorporated cities having a population  
6 not exceeding 1,500 persons and \$1,000 in all unincorporated communities  
7 and incorporated cities having a population in excess of 1,500 persons.  
8 The population shall be determined at the time of filing the applica-  
9 tion. Each applicant for a beverage dispensary license shall file with  
10 the application a cash bond or a surety bond executed by a surety  
11 company approved by the department [BOARD]. The condition of the bond  
12 or undertaking shall be that the applicant or applicants are the sole  
13 owners of the business to be licensed, and that no other person is  
14 financially interested directly or indirectly, and that the applicant or  
15 applicants will conduct the business in accordance with the applicable  
16 laws pertaining to intoxicating liquor in the state. The bond shall be  
17 in the penal sum of \$2,500. Upon revocation of the license, the bond  
18 may be forfeited and the amount deposited into the general fund of the  
19 state.

20 \* Sec. 8. AS 04.10.070 is amended to read:

21 Sec. 04.10.070. CLUB LICENSE. A club license gives to clubs,  
22 fraternal organizations, and patriotic organizations, that have a state  
23 or national charter, and that have been so incorporated and active for a  
24 period of two years or more, the right to sell intoxicating liquors to  
25 members and their families only in their club rooms. The club license  
26 fee is \$400, except that where any club has certified to the department  
27 [BOARD] that the gross sales of intoxicating liquor for the preceding  
28 year were less than \$5,000 the club license fee is \$200. For purposes  
29 of this section the term "member" as it applies to patriotic organiza-

1 tions includes military personnel on active duty in uniform upon special  
2 occasions.

3 \* Sec. 9. AS 04.10.190(c) is amended to read:

4 (c) If it appears to the department [BOARD] that any of the state-  
5 ments required in the application are untrue at the time of application  
6 for the license, the application may be denied.

7 \* Sec. 10. AS 04.10.190(d) is amended to read:

8 (d) If it appears to the department [BOARD] after the granting  
9 of the license that any of the statements required to be made in the  
10 application are untrue, the department [BOARD] may enter an order revok-  
11 ing the license. In that event, license money deposited by the appli-  
12 cant is forfeited to the state. Peace officers shall investigate and  
13 report to the department [BOARD] any violations of the provisions of this  
14 title.

15 \* Sec. 11. AS 04.10.200 is amended to read:

16 Sec. 04.10.200. PUBLIC NOTICE. The department [BOARD] shall  
17 provide by regulation for adequate notice to inform the public and the  
18 local governing body of a proposed issuance of a new license or transfer  
19 of an existing license. The notice shall be bilingual when necessary.  
20 Notice shall be given by posting at the location of the premises, at the  
21 nearest post office, and at one other conspicuous location in the area  
22 for a period of at least 10 days a true copy of the application and by  
23 public service announcements provided to newspapers and radio and tele-  
24 vision stations at least 30 days before filing the application. Paid  
25 notice by a new applicant may be required by the department [BOARD]  
26 under this section.

27 \* Sec. 12. AS 04.10.240 is amended to read:

28 Sec. 04.10.240. TRANSFER OF LICENSE. No license issued under this  
29 title may be transferred except after first securing the consent of the

1 department [BOARD]. No license may be transferred out of the election  
2 district for the house of representatives within which it was granted,  
3 except within an organized borough or a unified municipality established  
4 under AS 29.68.240 - 29.68.440. No license may be transferred if the  
5 transfer would result in exceeding a population limitation set out in  
6 AS 04.10.210. Licenses already issued on April 25, 1960, shall be  
7 renewed irrespective of such a limitation, unless the application is  
8 denied for reason other than that contained in this section.

9 \* Sec. 13. AS 04.10.260(a) is amended to read:

10 (a) The department [BOARD] shall [MAY, IN ITS DISCRETION,] approve  
11 the issuance or transfer of a license without regard to the quota  
12 provisions of AS 04.10.210 - 04.10.290 when it appears that the issuance  
13 or transfer will encourage the construction or improvement of a hotel,  
14 motel or resort.

15 \* Sec. 14. AS 04.10.270 is amended to read:

16 Sec. 04.10.270. [HEARING ON] PROTEST OF LOCAL GOVERNING BODY. An  
17 application for a transfer, renewal or new license coming from within a  
18 municipality shall be transmitted directly to the department [BOARD] and  
19 need not bear a recommendation of the governing body of the municipal-  
20 ity. Upon deciding to approve an application the department [BOARD]  
21 shall transmit written notice of its intent to approve the transfer,  
22 renewal or new license requested to the city governing body, if the  
23 application is for premises within an incorporated city, or to the  
24 borough assembly, if the application is for premises within the area of  
25 an organized borough outside the boundaries of an incorporated city. If  
26 the local governing body wishes to protest approval, it shall furnish  
27 the department [BOARD] with a notice of protest within 30 days of  
28 receipt of the [BOARD] notice of intent by the department to approve the  
29 application. Upon receipt of a protest by the local governing body, the

1 department [BOARD] may not take final action on the application until it  
2 has provided an opportunity for a hearing on the protest in accordance  
3 with the requirements of AS 04.10.272 [THE ADMINISTRATIVE PROCEDURE ACT  
4 (AS 44.62)].

5 \* Sec. 15. AS 04.10 is amended by adding new sections to read:

6 Sec. 04.10.272. HEARING ON PROTEST. On the protest of the local  
7 governing body under AS 04.10.270, the department may not approve the  
8 application unless the director, after he has provided the local govern-  
9 ing body with the opportunity for a hearing, finds that the protest of  
10 the local governing body is arbitrary, capricious or clearly unreason-  
11 able.

12 Sec. 04.10.274. APPEAL. The decision of the director may be  
13 appealed to the commissioner.

14 \* Sec. 16. AS 04.10.280 is amended to read:

15 Sec. 04.10.280. [HEARING ON APPLICATION;] REFUND OF FEES. [AT THE  
16 TIME SET FOR THE HEARING, THE BOARD SHALL CONSIDER THE APPLICATION AND  
17 ANY PROTESTS THAT MAY BE FILED AGAINST IT, AND SHALL HEAR THE APPLICANT  
18 OR OTHERS APPEARING IN CONNECTION WITH THE MATTER, AND GIVE JUDGMENT  
19 UPON THE APPLICATION.] If the application is rejected, the department  
20 [BOARD] shall refund the application fee less the sum of \$25. No  
21 license fee may be refunded after the license has been issued.

22 \* Sec. 17. AS 04.10.300(a) is amended to read:

23 (a) An adult resident in an area outside a municipality who  
24 desires to protest the issuance, reissuance, renewal or transfer of a  
25 license for an establishment that is outside a municipality and within  
26 two miles of his permanent place of abode or within the established  
27 village in which his permanent place of abode is located shall serve  
28 upon the applicant and the department [BOARD] a written statement of the  
29 reasons for his protest. Upon the receipt of the protest, the depart-

1 ment [BOARD] may give notice and hold a hearing in the area in which the  
2 protestant resides, at which all persons interested may be heard.

3 \* Sec. 18. AS 04.10.300(b) is amended to read:

4 (b) If the protest is made in writing to the department [BOARD] by  
5 at least 35 per cent of the adult residents having a permanent place of  
6 abode within the established village where the licensed premises is  
7 situated or is to be situated and within two miles of the established  
8 village, a special election conducted by the Department of Community and  
9 Regional Affairs held within the village is mandatory. If at the elec-  
10 tion the majority of the adult residents having a permanent place of  
11 abode within the established village and within two miles of the estab-  
12 lished village object to issuance, renewal or transfer, the department  
13 [BOARD] may not issue, renew or transfer any licenses in, or within two  
14 miles of, the established village.

15 \* Sec. 19. AS 04.10.300(c) is amended to read:

16 (c) If the licensed premises is situated or is to be situated  
17 outside a municipality or established village and at the hearing the  
18 majority of the adult residents having a permanent place of abode within  
19 two miles of the premises but outside the municipality or established  
20 village object to issuance, renewal or transfer, the department [BOARD]  
21 may, if in its opinion the public interest will be served by the refusal  
22 or if other grounds for refusal exist by law, refuse to issue or trans-  
23 fer the license.

24 \* Sec. 20. AS 04.10.310 is amended to read:

25 Sec. 04.10.310. PUBLIC APPROVAL FOR LICENSES IN REMOTE AREAS. No  
26 license for the sale of intoxicating liquor may be issued in any area  
27 [.] which is 50 miles or more from the incorporated boundaries of a  
28 municipality, unless a petition containing the signatures of two-thirds  
29 of the bona fide residents, 19 years of age or over, residing within a

1 radius of five miles of the nearest United States post office station,  
2 is filed with the department [BOARD] asking that a license be issued  
3 within the area. If there are two or more United States post office  
4 stations within the vicinity of the place where intoxicating liquor is  
5 to be sold, the nearest station to such place constitutes the point of  
6 beginning. A petition is not necessary for a reissuance of any license  
7 granted under this section. If no post office station exists within a  
8 radius of five miles of the place where intoxicating liquor is to be  
9 sold, then AS 04.10.440 applies.

10 \* Sec. 21. AS 04.10.330 is amended to read:

11 Sec. 04.10.330. APPLICATION FOR TRANSFER OF LICENSES. (a) No  
12 license may be transferred by the licensee to any other person except  
13 with the written consent of the department [BOARD]. Consent for the  
14 transfer of a license may be given upon written application for the  
15 transfer [THEREFOR].

16 (b) Application for the transfer of ownership of an existing  
17 license shall be accompanied by a statement, under oath, executed by the  
18 transferor in which he lists all debts and the amounts which he owes to  
19 a creditor of the business and taxes due. The board shall promptly  
20 inform each creditor of the application and of the amount owed that  
21 creditor. The department [BOARD] shall not approve the application for  
22 transfer unless all of the debts and taxes due to the state and any  
23 municipality are paid, or the transferor gives security for the payment  
24 of them satisfactory to the state or a municipality before [CREDITOR OR  
25 TAXING AUTHORITY PRIOR TO] approval of the application.

26 \* Sec. 22. AS 04.10.340 is amended to read:

27 Sec. 04.10.340. PROVISIONAL LICENSE. The director shall issue a  
28 provisional license upon the payment of the minimum fees for the li-  
29 censes mentioned in AS 04.10.110. Not later than February 15 of each

1 year following that for which a license has been issued to a licensee,  
2 the licensee shall file with the department [BOARD] an affidavit showing  
3 the amount of business done during the preceding year under his license  
4 and the location and establishment from which the business was done.  
5 The licensee shall pay to the department [BOARD] the license fees accrued  
6 during the preceding year at the time of filing the affidavit. Unless  
7 the affidavit is filed and fee paid, any license outstanding in the name  
8 of the applicant which has been issued under the laws in effect at the  
9 time of passage of this chapter shall be immediately cancelled by order  
10 of the department [BOARD]. The failure to file the affidavit or the  
11 cancellation of an existing license does not relieve any licensee from  
12 paying the prescribed fees.

13 \* Sec. 23. AS 04.10.350(c)(4)(B) and (C) are amended to read:

14 (B) upon proof satisfactory to the department [BOARD] of  
15 good cause for the failure to file and pay; and

16 (C) in accordance with [RULES OR] regulations adopted  
17 [PROMULGATED] by the department [BOARD]; the fee for filing an  
18 application for reinstatement shall, in addition to the annual fee,  
19 include the penalty fee provided in (3) of this subsection, no part  
20 of which is returnable to the applicant.

21 \* Sec. 24. AS 04.10.360 is amended to read:

22 Sec. 04.10.360. TRANSFER OF LICENSE. A license may be transferred  
23 to a new location to be operated by a qualified transferee subject to  
24 the limitation contained in AS 04.10.240 - 04.10.250. An application  
25 for a transfer of a license to a new location shall contain the informa-  
26 tion required by the department [BOARD] and shall be accompanied by  
27 proof of posting of application as required in AS 04.10.200. The trans-  
28 feree of a license shall have the qualifications required under this  
29 title for a new license. No license may be issued, reissued or trans-

1           ferred, unless the application for the license contains all the infor-  
2           mation required by this title, nor shall an application be granted which  
3           contains any false statements of material fact.

4           \* Sec. 25. AS 04.10.370 is amended to read:

5           Sec. 04.10.370. DEATH OF LICENSEE. If a person operating a busi-  
6           ness as sole licensee under a license authorized by this title dies, the  
7           executor or administrator of his estate shall, within 90 days of the  
8           death of the licensee or before December 31 of the year for which the  
9           license was issued, whichever date first occurs, make application to the  
10          department [BOARD] for transfer of the license. If no application is  
11          made within that time the license is forfeited and void. The executor  
12          or administrator may continue to operate the business until the transfer  
13          is approved or until the license is forfeited. The department [BOARD]  
14          may extend the time on petition of the executor or administrator.  
15          During the period that the licensed premises or a business license  
16          [HEREUNDER] is subject to the control of the executor or administrator,  
17          he is personally responsible for the conduct of the business or licensed  
18          premises.

19          \* Sec. 26. AS 04.10.380 is amended to read:

20          Sec. 04.10.380. REVIEW OF DEPARTMENT [BOARD] ACTION. An action  
21          relating to the administrative duties imposed by this title is subject  
22          to review by the department [BOARD] at the instance of an aggrieved  
23          party. An action or decision by the department [BOARD] relating to the  
24          issuance, reissuance, suspension or revocation of a license under this  
25          title is subject to review.

26          \* Sec. 27. AS 04.10.420 is amended to read:

27          Sec. 04.10.420. ADDITIONAL FEES. Any application fee prescribed  
28          by the department [BOARD] as provided in AS 04.05.020 is in addition to  
29          any other fee charged under this title and shall be deposited in the

1 general fund.

2 \* Sec. 28. AS 04.10.430(a) is amended to read:

3 (a) Whenever 35 per cent of the total number of voters at the last  
4 general municipal election held in an incorporated city petition the  
5 city council to do so the city council shall place upon a separate  
6 ballot at the next municipal election the following question: "For the  
7 sale of intoxicating liquors....." (yes or no). The  
8 regular election officers shall canvass the ballots and report the  
9 results to the city clerk, who shall publish the results. If, upon  
10 receipt of the certificate of election, the city clerk finds that a  
11 majority of the voters are against the sale of intoxicating liquor in  
12 the incorporated city, notice thereof shall be forwarded to the depart-  
13 ment [BOARD] and applications for licenses within the city shall there-  
14 after be denied and no further licenses shall be issued in the city for  
15 a period of one year, nor may the department [BOARD] issue a new beverage  
16 dispensary or retail license for premises located within five miles of  
17 the city. If a majority of the voters at a subsequent election conducted  
18 for the purpose and in accordance with these provisions favor the sale  
19 of intoxicating liquor in the city, the department [BOARD] shall, upon  
20 application, issue the number and type and license to the same or other  
21 premises within the city as were in existence on the date of last elec-  
22 tion, at which a majority of the voters prohibited the sale of intoxi-  
23 cating liquor. Priority shall be given those applicants who were  
24 licensees and whose licenses were not reissued by reason of the last  
25 election conducted under the provisions of this title. The department  
26 [BOARD] shall issue the license notwithstanding any resulting restric-  
27 tions which arose subsequent to the prohibiting election.

28 \* Sec. 29. AS 04.10.430(c) is amended to read:

29 (c) If the petition for a local option election is for a community

1 liquor license under AS 04.10.139, the department [BOARD] is precluded  
2 from issuing additional new licenses of any other type within the bound-  
3 aries of the city opting for the community liquor license. This section  
4 does not affect the provisions of AS 04.10.260, or liquor licenses  
5 issued before September 10, 1972.

6 \* Sec. 30. AS 04.10.440 is amended to read:

7       Sec. 04.10.440. CONSENT OF RESIDENTS OUTSIDE INCORPORATED CITIES.  
8 No new license for the sale of intoxicating liquor may be issued under  
9 this title in areas outside incorporated cities unless a petition con-  
10 taining signatures of a majority of the bona fide residents residing  
11 within one mile of the place where intoxicating liquor is to be sold,  
12 and over the age of 19 years, is filed with the department [BOARD]  
13 asking that a license be issued within the [SAID] area. The department  
14 [BOARD] may not require the petition for a reissuance of the license.

15 \* Sec. 31. AS 04.15.020(d) is amended to read:

16       (d) Presence of minors on premises. It is unlawful for a person  
17 under the age of 19 years to enter or remain upon licensed premises  
18 unless he is accompanied by his parent, guardian or spouse who has  
19 attained the age of 19 years. A person under the age of 19 years may  
20 enter and remain upon licensed premises which are also recognized as a  
21 restaurant for the purpose of dining or dancing if accompanied by his  
22 parent, guardian, or spouse who has attained the age of 19 years, or by  
23 the parent or guardian of any other minor also present, or by any other  
24 adult with the consent of the minor's parent or guardian. The depart-  
25 ment [ALCOHOLIC BEVERAGE CONTROL BOARD], with the approval of the city  
26 council if the premises are within the city or with the approval of the  
27 borough assembly if the premises are outside the city but within a  
28 borough, shall designate which premises are restaurants for the purposes  
29 of this section. Licensed premises are premises holding licenses under

1 AS 04.10.020(a) - 04.10.020(d). The department [ALCOHOLIC BEVERAGE  
2 CONTROL BOARD] shall adopt [PROMULGATE] regulations for the designation  
3 of restaurants and the continuation or withdrawal of the designation.  
4 No establishment may be designated as a restaurant for purposes of  
5 dining without the consent of the licensee.

6 \* Sec. 32. AS 04.15.020(e) is amended to read:

7 (e) Churches and schools. The department [BOARD] shall not issue  
8 a beverage dispensary license or package liquor store license for the  
9 sale of intoxicating liquor in any building in which the public entrance  
10 is within 200 feet of a school ground or church building measured by the  
11 shortest pedestrian route from the outer boundaries of the school ground  
12 or public entrance of a church building in which religious services are  
13 conducted, within or outside any municipality. A license may be re-  
14 issued or transferred from one licensee to another, for the sale of  
15 intoxicating liquor in a building in which that sale was authorized by  
16 law on April 25, 1960. When a license for the sale of intoxicating  
17 liquor in a building within 200 feet of a school ground or church build-  
18 ing in which religious services are conducted is forfeited, lapses or is  
19 transferred to other premises, no license for the sale of intoxicating  
20 liquor at the prior licensed location shall thereafter be issued.  
21 However, the location may be relicensed in the event of the removal of  
22 either cause of the restriction.

23 \* Sec. 33. AS 04.15.020(f) is amended to read:

24 (f) Premises to be accessible for inspection. The premises of  
25 licensees under this title shall be easily accessible for inspection by  
26 peace officers charged with the enforcement of the provisions of this  
27 title, including [MEMBERS OF THE BOARD AND] the director or his agent,  
28 during all regular hours of the transaction of business upon the pre-  
29 mises.

1 \* Sec. 34. AS 04.15.020(g) is amended to read:

2 (g) The governing body of a political subdivision of the state may  
3 provide by ordinance that the provisions of (c) of this section do not  
4 apply in the political subdivision when elections are being held. The  
5 department [ALCOHOLIC BEVERAGE CONTROL BOARD] shall adopt regulations  
6 governing the sale of intoxicating liquor on election days in the un-  
7 organized areas of the state.

8 \* Sec. 35. AS 04.15.035(a)(1) is amended to read:

9 (1) the premises to be used for storage are inspected and  
10 approved by the department [BOARD] before their use;

11 \* Sec. 36. AS 04.15.050 is amended to read:

12 Sec. 04.15.050. SEIZURE AND SALE OF SHIPMENTS TO UNLICENSED PER-  
13 SONS. Any intoxicating liquor shipped into the state for sale other  
14 than to licensees is contraband and subject to confiscation by the state  
15 and any intoxicating liquor seized shall be sold under the order of the  
16 department [BOARD] and the proceeds [THEREOF] deposited [WITH THE  
17 DEPARTMENT OF REVENUE AND COVERED] into the general fund. However, this  
18 section does not apply to sacramental wine, alcohol or liquor used for  
19 industrial, pharmaceutical or medical purposes or other liquor used for  
20 filling the prescription of a physician.

21 \* Sec. 37. AS 04.15.060(d) is amended to read:

22 (d) A licensee or his employee who questions, or has reason to  
23 question, whether a person entering upon licensed premises, or ordering,  
24 purchasing, attempting to purchase or otherwise procuring or attempting  
25 to procure the serving or delivery of intoxicating liquor, has attained  
26 the age of 19 years, shall require that person to sign a statement that  
27 he is over the age of 19 years. This statement shall be made upon a  
28 form prepared by and furnished to the licensee by the department [BOARD].  
29 If a licensee, or his employee, in good faith, secures the signed state-

1 ment he is not subject to criminal prosecution for violation of the  
2 provisions of [SUBSECTIONS] (b) and (c) of this section.

3 \* Sec. 38. AS 04.15.100(b) is amended to read:

4 (b) Upon conviction of a licensee for a violation under (a) of  
5 this section, or for violation of a municipal ordinance adopted by a  
6 municipality in conformity with AS 04.15.070, the judge having jurisdic-  
7 tion shall send a notification of conviction together with a certified  
8 copy of the record of conviction to the department [BOARD]. The depart-  
9 ment [BOARD] may [, UPON THE DIRECTION OF A MAJORITY OF ITS MEMBERS,  
10 THEREUPON] suspend the license as [HEREINAFTER] provided in this section  
11 for the first and second violations and upon a third violation may  
12 revoke the license and declare the bond forfeited. For the purpose of  
13 this section, the terms "second violation" and "third violation" include  
14 only those violations which occur within five years of the first viola-  
15 tion, but are not limited to repeated violations of the same statutory  
16 provision or municipal ordinance.

17 (1) First violation. The license of the premises involved  
18 may be suspended for not less than 10 nor more than 45 days;

19 (2) Second violation. The license of the premises involved  
20 may be suspended for a period of not less than 30 days nor more than 90  
21 days.

22 \* Sec. 39. AS 44.25.020(4) is repealed and re-enacted to read:

23 (4) administer the provisions of AS 04 relating to alcoholic  
24 beverage control.

25 \* Sec. 40. AS 04.05.050 and 04.05.060 are repealed.

26 \* Sec. 41. AS 04.10.210, 04.10.240 and 04.10.260 are repealed.

27 \* Sec. 42. AS 04.05.010(a) is amended to read:

28 (a) There is established an Alcoholic Beverage Control Board with-  
29 in the Department of Commerce and Economic Development [REVENUE] con-

1 sisting of five members appointed for overlapping three-year terms. The  
2 board is vested with the duties, powers, and responsibilities involved  
3 in the control of alcoholic beverages, including the promulgation of  
4 rules and regulations and the hearing of appeals from the action of  
5 officers and employees charged with enforcing the alcoholic beverage  
6 control laws, rules, and regulations. The governor shall appoint the  
7 board subject to confirmation by the legislature. No member of the  
8 board may hold any other state or federal office, either elective or  
9 appointive. Two members of the board shall be actively engaged in the  
10 alcoholic beverage industry, except that no member may be an officer,  
11 agent, or employee of a wholesale alcoholic beverage enterprise. No  
12 three members of the board may be engaged in the same business, occupa-  
13 tion or profession. Three members constitute a quorum for the conduct  
14 of business. The board shall meet at least once each year in each of  
15 the four judicial districts to study, reconsider and modify existing  
16 agency rules and regulations in the light of current local problems.

17 \* Sec. 43. Notwithstanding the provisions of AS 44.66.010(b), the Alco-  
18 holic Beverage Control Board shall continue in existence until June 30, 1980,  
19 and after that date the Department of Commerce and Economic Development  
20 shall have jurisdiction over the control of alcoholic beverages in this state  
21 under the provisions of AS 04. During the period until June 30, 1980, the  
22 members of the board shall facilitate the orderly transfer of the functions  
23 and responsibilities of the board to the department. Nothing in this Act or  
24 in AS 44.66 limits the authority of the board under AS 04 before June 30,  
25 1980.

26 \* Sec. 44. Sections 1 - 40 of this Act take effect July 1, 1980. Section  
27 41 of this Act takes effect July 1, 1983. Sections 42 and 43 of this Act  
28 take effect June 30, 1979.